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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/311,558	05/14/99	ALAIA	M 046700-5004-

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MORGAN, LEWIS & BOCKIUS
1800 M STREET NW
WASHINGTON DC 20036-5869

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EXAMINER

PATEL, J

ART UNIT

PAPER NUMBER

2765

DATE MAILED:

02/15/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/311,558

Applicant(s)

ALAIA et al.

Examiner

Jagdish Patel

Group Art Unit

2765



☒ Responsive to communication(s) filed on May 14, 1999

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 71-76 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 71-76 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Drawings

1. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 71-76 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 71-76: these claims fails to recite limitation (s) to accomplish the objective set forth in the preamble. For example, claim 71 recites “ a method of conducting an online auction...between a buyer and a plurality of potential sellers..”. The claimed invention does not clearly recite any limitation(s) which are performed by or relevant to the buyer. Additionally, there are no limitation is recited which indicate that the auction process is completed. It appears that the claimed invention pertains to qualifying a plurality of bids received from a plurality of sellers wherein the buyer has identified the bid ceiling for each (potential) seller.

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Similar analysis applies to independent claim 74.

Dependent claims 72-73 and 75-76 inherit same deficiency as their respective parent claims.

Claims 71-76: the claims do not clearly recite how the auction for custom products or materials is accomplished when the bid ceiling only applied to a plurality of sellers without regards to said objects being auctioned to a buyer.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 71-76 are rejected under 35 U.S.C. 103(a) as being unpatentable over published article "SOLD! ... TO THE LOWEST BIDDER, Computer Finance, v6, n2, July 1995.

The reference article teaches a method of conducting an online auction between a buyer and a plurality of potential sellers (suppliers) in a format known as RATS (Reverse Auction Tendering System) substantially as recited in the subject claims. This articles teaches the essential steps of conducting an online auction including setting an individual bid ceiling (and bid floor) for at least one of said plurality of potential bidders (sellers) (p. 2 L 27-35). The steps of receiving

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bids, determining whether a received bid for a potential seller is greater than a corresponding individual bid ceiling (or bid floor) set for a potential seller ((p. 2 L 27-35). The articles clearly teaches the benefits of bid ceiling (ceiling price) and bid floor (or target lowest price) on p. 2 L 27-46).

The aforementioned article do not clearly teach that the bid ceiling and the bid floor are applied to a plurality of potential sellers.

Official Notice is taken that bidder specific ceiling and floor are old and well known concepts in art of commercial auctions and project procurement.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to include individual bid ceilings and bid floors for each of a plurality of bidders in the method taught by the Computer Finance article to obtain the claimed invention because:

(A) individual bid ceiling would limit those sellers who can meet the requirements of the buyer such as creditworthiness and capacity to meet production and quality of goods.

(B) individual bid floor would reduce a risk that a bid received from a potential seller is economically viable consistent with the sellers creditworthiness and capacity to meet production and quality of goods.

Prior Art Cited

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Conclusion


6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jagdish Patel whose telephone number is (703) 308-7837. The examiner can normally be reached Monday-Thursday from 8:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allen MacDonald, can be reached at (703) 305-9708.

The fax number for Formal or Official faxes to Technology Center 2700 is (703) 308-9051 or 9052. Draft or Informal faxes for this Art Unit can be submitted to (703) 308-5397.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

JNP 01/10/00



STEPHEN R. TKACS
PRIMARY EXAMINER